

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA**

DARRIUS L. HIGGINS, SR.,	)	
	)	Case No. 1:24-cv-377
<i>Plaintiff,</i>	)	
	)	Judge Travis R. McDonough
v.	)	
	)	Magistrate Judge Michael J. Dumitru
TIM DEMPSEY, et al,	)	
	)	
<i>Defendants.</i>	)	

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**ORDER**

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On January 2, 2025, United States Magistrate Susan K. Lee filed her Report and Recommendation (Doc. 8) pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Magistrate Judge Lee recommended that Mr. Higgins’s complaint be dismissed with prejudice and without leave to amend, and that his motion for leave to proceed in forma pauperis be denied as moot accordingly. Magistrate Judge Lee further recommended that Mr. Higgins be declared a vexatious litigant. (*See* Doc. 8.) The Court will discuss each recommendation in turn.

**I. DISMISSAL OF THE COMPLAINT**

Mr. Higgins has filed no objections to the Magistrate Judge’s Report and Recommendation that his complaint be dismissed and his motion for leave to proceed in forma pauperis denied as moot.<sup>1</sup> Nevertheless, the Court has reviewed the Report and

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<sup>1</sup> Magistrate Judge Lee specifically advised Plaintiff that he had 14 days in which to object to the Report and Recommendation and that failure to do so would waive his right to appeal. (Doc. 9, at 5 n.3); *see* Fed. R. Civ. P. 72(b)(2); *see also* *Thomas v. Arn*, 474 U.S. 140, 148-51 (1985) (noting that “[i]t does not appear that Congress intended to require district court review of a magistrate’s

Recommendation, as well as the record, and it agrees with Magistrate Lee's well-reasoned conclusions.

Accordingly, Mr. Higgins's complaint (Doc. 2) is hereby **DISMISSED** with prejudice and his motion for leave to proceed in forma pauperis (Doc. 1) hereby **DENIED AS MOOT**.

## **II. VEXATIOUS LITIGANT DECLARATION**

Although Mr. Higgins has also filed no objections to the Magistrate Judge's Report and Recommendation that he be declared a vexatious litigant, the Court has reviewed the Report and Recommendation, as well as the record of Mr. Higgins's filings. The Court agrees with Magistrate Judge Lee's assessment that Mr. Higgins has demonstrated vexatious filing practices in both this litigation and a previous suit he filed against the same defendants earlier this year, *Higgins v. Luptons*, Case No. 1:24-cv-297 (*see* Doc. 8, at 5–6); however, given that this conduct consists of only two suits filed against the same defendants, the Court does not find a permanent injunction is warranted at this time. Nonetheless, because Mr. Higgins has displayed the beginnings of a pattern of vexatious filings, he is hereby put **ON NOTICE** that further vexatious filings resembling those in this litigation and Case No. 1:24-cv-297 will result in a permanent injunction prohibiting him from filing any petition or complaint without first seeking and receiving approval by the Court.

**SO ORDERED.**

/s/ Travis R. McDonough

**TRAVIS R. MCDONOUGH**  
**UNITED STATES DISTRICT JUDGE**

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factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings"). Even taking into account the three additional days for service provided by Fed. R. Civ. P. 6(d), the period in which Plaintiff could timely file any objections has now expired.